

STATE OF MISSISSIPPI

OFFICE OF THE STATE AUDITOR

STACEY PICKERING AUDITOR



REPORT FROM THE AUDITOR

MUNICIPAL COURT CLERKS SUMMER CONVENTION

IMPERIAL PALACE - BILOXI, MISSISSIPPI

JUNE 28, 2010

**Presented By:
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PROGRAM INFORMATION

OBJECTIVES: The objective of this program is to educate participants about their legal responsibilities and personal liability when exercising duties related to expending public funds and managing public property. With emphasis on accounting for and substantiating activities.

HOURS: Presentation time will be approximately 1 hour.

FIELD OF STUDY:
Accounting and Auditing

INSTRUCTOR: The instructor is the primary author of the presented written material.

PROGRAM MATERIAL:
The written material represents requirements of the State Auditor's Office as the agency authorized by state law to prescribe accounting and auditing procedures. All program material is reviewed by the Department of Technical Assistance, State Auditor's Office. See program cover page for telephone number, address, website and additional information.

INSTRUCTIONAL METHOD:
Program will be presented orally and supported by detailed written material to coincide with presentation.

EVALUATION: Through out the program the instructor will recap presented material; and participates will be given opportunity to ask questions, comment and evaluate understanding. Participates may contact the State Auditor's Office (Technical Assistance) to ask additional questions, further comment on, and offer additional evaluate the program.

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I. INTERNET WORLD WIDE WEB SITES

LEGISLATIVE BILLS:	http://billstatus.ls.state.ms.us
MISSISSIPPI CODE:	http://www.sos.state.ms.us/pubs/MSCode/
ATTORNEY GENERAL OPINIONS:	http://www.agopin.state.ms.us
ETHICS COMMISSION OPINIONS:	http://www.ethics.state.ms.us/opinion1.htm
DFA TRAVEL REGULATIONS:	http://www.mmrs.state.ms.us/Purchasing/Travel.htm
STATE AUDITOR'S OFFICE:	http://www.osa.state.ms.us
ARCHIVES RECORDS:	http://www.mdah.state.ms.us/locgov/localgov.html
STATE RETIREMENT SYSTEM:	http://www.pers.state.ms.us/
STATE OF MISSISSIPPI:	http://www.state.ms.us/
MISS. STATE PUBLICATIONS	http://msucares.com/community/governmental/

II. SELECTED NEW LEGISLATION 2010

[First Impressions]

HOW TO TRACK NEW LEGISLATION ON THE INTERNET.

GO TO:<http://billstatus.ls.state.ms.us/>

UNDER "BILL STATUS": SELECT "All Measures (NOT DEAD)"

AT THIS POINT YOU WILL SEE A LIST OF BILLS THAT PASSED INTO LAW.

SELECTED LEGISLATION TO BE AWARE OF.

OPEN RECORDS:

House Bill 113, effective 7/1/10 revised Section 25-61-5 to require public procedures (policies) to allow no more than 7 working days for a public body to provide a public record. Such procedures must require a written explanation if providing records requires more than 7 days and up to 14 working days. More than 14 days may only be allowed by mutual agreement.

EXPUNGEMENT PROCEDURE:

House Bill 160, effective 7/1/10 revised Section 99-19-71 to require a person requesting a misdemeanor to be expunged to petition the court "in which the conviction was had".

This section and Section 41-29-150 also revised procedures and conditions for certain felonies to be expunged.

[H.B 1758 also created an assessment to be collected by the circuit clerk to expunge a felony.

FYI - COUNTY BOS REGULATE NUDITY ESTABLISHMENTS:

House Bill 170, effective 7/1/10 establishes authority for a Board of Supervisors to regulate by ordinance any establishment where public displays of nudity are present. Public notice and hearing required.

COURTS – ILLEGAL LIGHTERS:

House Bill 232, effective 7/1/10 creates new law to prohibit selling novelty lighters. This law provides for a civil violation with a fine of up to \$ 500.

FYI - COUNTY JUSTICE COURT – TRAFFIC COURT DAY

House Bill 297, effective 7/1/10 revised Section 9-11-15 to require justice courts in counties with a population of less than 150,000 to designate one half day for a traffic court; and for counties with a population over 150,000 to designate one whole day for a traffic court. This court must give priority to traffic related offenses. The whole day requirement may be satisfied with two half days, one morning and one afternoon.

LAW ENFORCEMENT – LOST PERSON WITH DEMENTIA, ETC.

House Bill 664, effective 7/1/10 creates new laws to provide for the Dept. of Public Safety, Bureau of Investigation to set up a Silver Alert System to establish a system of notification and action by law enforcement to identify persons with dementia or other cognitive impairment who are missing or lost.

FYI - CIRCUIT COURT ASSESSMENT OF LAW ENFORCEMENT INVESTIGATIVE COSTS

House Bill 733, effective 7/1/10 creates a new law to allow the court (circuit) to impose costs of certain law enforcement investigations as an assessment when the defendant is convicted of a felony. The assessment is to be paid to the appropriate governmental entity (city, county, District Attorney, etc.).

[Police department needs to have a system in place to document investigative costs on potential felonies.]

MUNICIPAL LOCAL EMERGENCY – MAYOR MAY DECLARE

House Bill 884, effective 7/1/10 revises Sec. 33-15-17 to authorize the mayor to declare a local emergency (disaster plan goes into effect and normal procedures set aside). The board/council must approve or disapprove the proclamation at its next regular meeting.

COUNTY/CITY – BAIL BONDS – NEW PROCEDURES

House Bill 900, effective 7/1/10 revises several sections to provide changes in procedures for bail bondsmen and municipal court bonds. Included in this bill is Section 83-39-3 to prohibit a bondsman from writing bonds where a defined relative is a contractor or is employed. Also, Sec. 21-23-8 was rewritten to provide for municipal bail bond procedures.

PERS – RETIRES WORKING AFTER RETIREMENT

House Bill 957, effective 7/1/10 and 7/1/11 Section 25-11-127 was revised. Primarily, effective 7/1/10, elected officials must be age 62 to retire and stay in office with the 25 % salary limit. Also, effective 7/1/11 there will be a 90 day wait to be reemployed up to ½ time after retirement; and the municipality will have to pay the matching PERS contribution for compensation paid after retirement.

JAILS/CORRECTIONAL FACILITY – SEXUAL CONTACTS WITH INMATES

House Bill 1135, effective 3/17/10 revised Section 97-3-104 to expand the prohibition against sexual contract between prisoners and jail/law enforcement personnel to also include employees of the law enforcement agency or correctional facility. This revision also prohibits civilians with supervisory authority from sexual contact with the offender's consent.

COURTS – STATE UNIFORM ASSESSMENTS INCREASES

House Bill 1157, effective 7/1/10 revised Section 99-19-73 (7) to increase the uniform court assessment for felonies. Section 99-19-73 (8) was revised to create two new municipal court assessments.

STATE UNIFORM ASSESSMENT INCREASE [Sec. 99-19-73 (7)]:

Other Felonies (**OF**) **are increased** from \$ 169.50 to **\$ 269.50**.

NEW ASSESSMENTS [Sec. 99-19-73 (8)]: [apply in Municipal Court]

Railroad Crossing Violation (RCV) [Sec. 99-19-73 (8) (a)] – a **\$ 25.00** state assessment upon any defendant convicted of violating Section 77-9-249. [This assessment will be used by the state to fund the new Operation Lifesaver Fund.]

Drug Violation (DV) [Sec. 99-19-19-73-(8) (b)] – a **\$ 25.00** State Assessment upon any defendant convicted of violation Section 41-29-139. [This assessment will be used by the state to fund the Drug Evidence Disposition Fund.]

COURTS – CRIME LAB FEE

House Bill 1157, effective 7/1/10 revised Section 45-1-29 to create a new laboratory and analysis fee of \$ 300 (unless hardship order). Where crime lab services were used, this fee is to be collected from felony defendants who are convicted, felony or misdemeanor defendants non adjudicated under Sec. 99-15-26, and individuals who participate in Sec. 99-15-101 pre trial intervention programs. This money is paid to the Commissioner of Public Safety for deposit into the crime lab fund.

MUNICIPAL COURTS – JUDGE APPOINTMENTS

House Bill 1158, effective 4/1/10 revised Section 21-23-3 to allow municipalities with a population of 10,000 or more to appoint one additional judge.

Sections 21-23-3 and 21-23-5 were also revised to allow a municipality to appoint a licensed attorney of the county or adjacent county, or a justice court judge of the county to serve as its municipal judge if its population is 20,000 or less.

CITY/COUNTY – TRAPPING ANIMALS NEAR ROADS

House Bill 1222, effective 7/1/10 revised Section 49-7-13 to allow municipalities and counties to find by board order that snares are required within 100 feet of public roads to trap fur bearing nuisance animals for safety purposes.

CITY – CLEANING PRIVATE PROPERTY

House Bill 1281, effective 7/1/10 revised Section 21-19-11 to change the procedure for cleaning private property found to be a menace to the community. This bill requires a public hearing and changes the procedures for notice to the land owner. [The language in this bill is to be combined with the changes to Section 21-19-11 passed in House Bill 1412.]

COURTS – ASSESSMENT FOR HUNTING WITHOUT A LICENSE

House Bill 1295, effective 7/1/10 revised Section 49-7-21 (3) (c) to require instate residence to pay a State Game and Fish License Assessment in addition to all other fines and costs if convicted of hunting without a license. This collection will be processed by the court clerk the same as to the HV collections for out of state residence

[The charging officer is required to write the amount of the assessment (which is equal to the license costs) on the ticket.]

MISSISSIPPI CODE BOOKS DISTRIBUTION

Senate Bill 2378, revised Section 1-1-11 to provide certain state, district and legislative officers will receive CD-ROM Mississippi Codes in lieu of actual books; unless a written request for actual hard copy books is filed with the Joint Committee on Compilation, Revision and Publication of Legislation. This bill also limits code books to legislative attorneys.

COURTS – BOATING UNDER THE INFLUENCE

Senate Bill 2383, effective 7/1/10 revised Sections 59-23-3, 59-23-5 & 59-23-7 to change “boating under the influence” percentage (.08) of alcohol requirements to match “driving under the influence” laws. The bill also authorizes marine law enforcement officers to enforce the law.

CITY – HOUSING AUTHORITY POLICE PROTECTION FEE CONTRACT

Senate Bill 2415, effective 7/1/10 through 7/1/11 revised Sec. 21-17-1 to allow municipalities to contract with housing authorities to provide police protection in consideration of fees or compensation.

COUNTY/CITY/DFA – DISTRICT ATTORNEY SUPPORT

Senate Bill 2589, effective 4/14/10 revised Section 25-31-5 to allow district attorneys to accept money from any source (including counties and municipalities) to fund assistant district attorneys and investigators salaries. Such salaries may be paid by the district attorney or county payroll. The district attorney must report all such supplements to the counties in his/her district and to the Dept. of Finance and Administration. [See S. B. 2610]

COURTS – HIT AND RUN PENALTY

Senate Bill 2597, effective 7/1/10 revised Section 63-3-401 to increase the available jail penalty from one to five years to five to twenty years. The alternative fine penalty remains at \$ 1,000 to \$ 10,000.

COUNTY/CITY/DFA – DISTRICT ATTORNEY SALARIES

Senate Bill 2610, effective when approved under federal voting rights to create Section 25-31-10.1 to increases District Attorneys’ salary limitations and provides for municipalities, counties and other sources may fund the increase.

COURTS – SMOKING & PUBLIC FACILITY & MINORS

Senate Bill 2644, effective 7/1/10 creates new law to prohibit smoking in or within 100 feet of a facility where persons 18 years old or less are engaged in an athletic event. Provisions are made for public notices. The penalty for violating this law is a warning for first offence, a civil fine of \$ 75 for second offence and \$ 150 for later convictions. These cases are to be tried in justice and municipal courts.

COURTS – PROCEDURES FOR PERSON ACQUITTED ON GROUNDS OF INSANITY

Senate Bill 2841, effective 3-29-10 revised Section 99-13-7 to require that only a court may find a person no longer mentally ill and dangerous when that person was acquitted on grounds of insanity. Section 41-21-88 was created to require notice be provided to the sheriffs where the offense was committed and the destination of the committed person. This section and Section 41-21-87 were also revised to require notices be provided to the crime victim or family.

COUNTY/CITY – RECYCLING CENTERS AT DOC FACILITIES

Senate Bill 2849, effective 7/1/10 creates new law to allow counties, municipalities and the Dept. of Corrections to develop recycling centers at regional correctional facilities. Sections 17-17-65 and 49-31-11 were also revised to allow certain grants to be used for this purpose.

COURTS – FIRING AT AND DAMAGING DWELLING

Senate Bill 2857, effective 7/1/10 creates new law to make it a crime to fire a firearm and cause damage to a dwelling or animal. A penalty of up to \$ 1,000 and/or up to 12 month in jail is authorized.

COURTS – COUNTY REGULATION OF FIREARMS

Senate Bill 2857, effective 7/1/10 also creates a new law to allow counties to regulate the discharge of firearms in platted subdivisions. The county may not prohibit discharge of firearms where projectile will not leave the property line.

[Note. This bill also requires the Dept. of Wildlife to develop safety regulations and markings for use of trails.]

COURTS/LAW ENFORCEMENT – CARRYING CONCEALED WEAPON

Senate Bill 2862, effective 7/1/10 creates a new law to allow a retired law enforcement officer to receive firearm certification training from Miss. Assc. of Police Chiefs if he/she does not reside close to the agency from which he/she retired.

This bill also eliminated parks from the list of areas where a concealed weapon may not be carried even with a license.

COURTS/COUNTIES/CITIES – CONTRACTING COLLECTIONS

Senate Bill 2887, effective 7/1/10 revised Section 63-1-53 to allow counties and municipalities to contract for collection of Section 99-19-3 cash appearance bonds and late fees if a defendant fails to appear within 90 days after the Commissioner of public safety suspends his/her drivers license.

A new law was also created to authorize counties and municipalities to contract for the collection of cash appearance bonds from defendants who fail to appear in court within 90 days after the set court date. This authority makes clear this is a process to give notice to the defendant subject to right to trial. This new law also added District Attorney's to the list of who a county/city may contract with for collections.

Sections 19-3-41 (2) and 21-17-1 (6) were also revised to allow contracts for collections to be made with District Attorneys (within district).

Sections 19-3-41 (4) and 21-17-1 (6) were revised to allow the late fee for in house collections to increase from 15 % to 25 % for in state collections, and from 25 % to 50 % for out of state collections.

COURTS – TRANSPORTING AND RELEASING WILD HOGS

Senate Bill 2919, effective 7/1/10 revised Section 49-7-140 to prohibit relocating and releasing wild hogs. Conviction is a class I violation of Sec. 49-7-141.

COURTS – DOMESTIC VIOLENCE

Senate Bill 2923, effective 7/1/10 revised laws related to domestic violence.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Senate Bill 3083, effective 7/1/10 revised various laws relating to the State Public Employee's Retirement System. [See H. B. 957 & H. B. 1 1st. Special Session]

III. STATE ASSESSMENT AND FINE PROCEDURES EFFECTIVE JULY 1, 2010 -

1. STATE ASSESSMENTS IN CRIMINAL CASES

A. STATE UNIFORM ASSESSMENTS

1. **Purpose:** These collections are sent to the state to fund various programs, such as mandatory training of court personnel.
2. **When Due:** These collections are due only when the court imposes a monetary penalty or any other penalty on any of the following types of convictions, **including ordinances**. *(not charged if no penalty is imposed, such as with an ordinance warning for a curfew, leash, etc. violation)*

3. Types of Violations:

- (a) **TRAFFIC VIOLATIONS** SEC. 99-19-73 (1)
 - (1) Includes: Any violation in Title 63, Miss. Code
 - (2) Excludes: Parking or Registration offenses; and
Sec. 63-11-1 et seq. Implied Consent Violations
 - (3) Amount: **Seventy Seven Dollars and Fifty Cents \$ 77.50**
 - (4) DFA Settlement Code: ***T V***
- (b) **IMPLIED CONSENT LAW VIOLATIONS** SEC. 99-19-73 (2)
 - (1) Includes: Any violation in Title 63-11-1 et seq.
 - (2) Amount: **Two Hundred Thirty Two Dollars
and Fifty Cents \$ 232.50**
 - (3) DFA Settlement Code: ***I C***
- (c) **GAME AND FISH LAW VIOLATIONS** SEC.99-19-73 (3)
 - (1) Includes: Violation of the game and fish laws or regulations
 - (2) Amount: **Seventy Seven Dollars \$ 77.00**
 - (3) DFA Settlement Code: ***G F***

- (d) **LITTER LAW VIOLATIONS** SEC. 99-19-73 (4)
- (1) Includes: Any violation of Section 97-15-29
 - (2) Excludes: Any violation not under this section
 - (3) Amount: Twenty Five Dollars **\$ 25.00**
The \$ 50.00 ALA assessment must also be collected.
The "Other Misdemeanor" assessment is also collected.
 - (4) DFA Settlement Code: **SL**

- (e) **TRAUMA TRAFFIC VIOLATIONS** SEC. 99-19-73 (5)
- (1) **Includes:** Any speeding law
Sec. 63-3-1201 reckless driving
Sec. 63-3-1213 careless driving
 - (2) **Excludes:** Speeding less than 10 MPH
 - (3) **Amount:** Speeding:

Less than 10 MPH	Zero	
10 MPH to 20 MPH	Ten Dollars	\$ 10.00
20 MPH to 30 MPH	Twenty Dollars	\$ 20.00
30 MPH or more	Thirty Dollars	\$ 30.00
Reckless Driving	Ten Dollars	\$ 10.00
Careless Driving	Ten Dollars	\$ 10.00
 - (4) **Settlement Code:** **TT**

- (f) **OTHER MISDEMEANORS** SEC. 99-19-73 (5)
- (1) Includes: All misdemeanor violations unless excluded
- includes ordinance violations
- (Litter Violation is included)
- tag violations A. G. 4/19/02
 - (2) Excludes: (1) Traffic Violations see (a) above
(2) Implied Consent Violations see (b) above
(3) Game and Fish Law Violations see (c) above
(5) Trauma Traffic Violationssee see (e) above
(6) Vehicular Parking and Registration
 - (3) Amount: **Ninety Five Dollars** **\$ 95.00**
 - (4) DFA Settlement Code: **OM**

- (g) **OTHER FELONIES** SEC. 99-19-73 (6)
- (1) Includes: All felony violations
 - (2) Excludes: Same as Other Misdemeanors
 - (3) Amount: **Two Hundred Sixty Nine Dollars**
And Fifty Cents **\$ 269.50**
 - (4) DFA Settlement Code: **OF**

New
H. B. 1157
(was \$ 169.50)

B. STATE COURT CONSTITUENTS ASSESSMENT SEC. 37-26-9 (4)

- 1. Purpose:** A state assessment to assist funding of court education
- 2. Imposed When:** *A criminal conviction* and a fine of \$ 10.00 or more is imposed
- 3. Amount Due:** **Fifty Cents \$.50**
- 4. DFA Settlement Code:** **C C**

C. CHILDREN'S TRUST FUND ASSESSMENT SEC. 99-19-75

- 1. Purpose:** To fund child abuse prevention programs.
- 2. Imposed When:** A defendant is convicted of a violation of Section 97-3-65, 97-3-65 et seq. or 97-3-7 against a minor; and a fine or other penalty is imposed.
- 3. Amount Due:** **One Thousand Dollars \$ 1000.00**
- 4. DFA Settlement Code:** **CTF**

NEW: H. B. 1157

D. RAILROAD CROSSING VIOLATION ASSESSMENT Sec. 99-19-73 (8) (a)

- 1. Purpose:** To fund the Operation Lifesaver Fund to Increase safety at railroad crossings.
- 2. Imposed When:** A defendant is convicted of a violation of Section 77-9-249 and a fine or other penalty is imposed.
- 3. Amount Due:** **Twenty Five Dollars \$ 25.00**
- 4. DFA Settlement Code:** **RCV**

**New
Code**

NEW: H. B. 1157

E. DRUG VIOLATION ASSESSMENT Sec. 99-19-73 (8) (b)

- 1. Purpose:** To fund the Drug Evidence Disposition Fund to cover costs to MBN for acquisition, storage, destruction, etc. of evidence related to the Uniform Controlled Substances Act.
- 2. Imposed When:** A defendant is convicted of a violation of Section 41-29-139
- 3. Amount Due:** **Twenty Five Dollars \$ 25.00**
- 4. DFA Settlement Code:** **DV**

**New
Code**

F. ADDITIONAL LITTERING ASSESSMENT SEC. 97-15-29

1. **Purpose:** To fund Law Enforcement Officers Monument Fund and deceased officer's children's fund.
2. **Imposed When:** A defendant is convicted of a violation of Sec. 97-15-29.
3. **Amount Due:** **Fifty Dollars** **\$ 50.00**
(This is collected in addition to the Sec. 99-19-73 State Uniform Assessments under codes OM and SL)
4. **DFA Settlement Code:** **ALA**

G. STATE APPEARANCE BOND FEE ASSESSMENT SEC. 83-39-31

1. **Purpose:** This assessment is sent to the state general fund
2. **Imposed When:** **[ON ALL CHARGES]**
 - (a) The defendant posted a bond conditioned upon appearance at trial.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), Property bail bond, or a guaranteed arrest bond certificate]
 - (b) The defendant was released on his recognizance, driver's license deposit, or written promise to appear; and was required to appear at trial.
 - (c) The defendant was released on an appeal bond, with appearance required.
3. **Not Imposed When:**
 - (a) No bond was posted, defendant was held in jail until trial
 - (b) After conviction, but special circumstances apply
 - (1) Traffic violation prepaid - Sec. 99-19-3
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond
4. **When Collected:**
 - (a) **After conviction** when a surety bail bond, property bond or guaranteed arrest bond certificate is posted with the court clerk.
 - (b) **After conviction** when any type of bond is taken by someone other than the court clerk, such as the sheriff or other police officer.
 - (c) **In advance**, when **Cash Bond** is taken.
(Includes police officers taking cash bonds, A. G. 3-29-02.)
5. **Amount:** Greater of 2 % of bond or Twenty Dollars **\$ 20.00**
6. **DFA Settlement Code:** **A B F**

H. STATE VICTIMS BOND FEE ASSESSMENT SEC. 83-39-31 (7)

1. **Purpose:** This assessment is sent to the state's "Victims of Domestic Violence Fund".

2. **Imposed When:** [ON ALL CHARGES]

The defendant posted a bond conditioned upon appearance at trial.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), property bail bond, or a guaranteed arrest bond certificate]

3. **Not Imposed When:**

- (a) No bond was posted, defendant was held in jail until trial
- (b) **The defendant was released on his own recognizance, deposited his driver's license in lieu of bail, or was released after arrest on a written promise to appear, and was required to appear at trial.**
- (c) **The defendant was released on an appeal bond, that was conditioned for appearance.**
- (d) Special circumstances apply
 - (1) Traffic violation prepaid - Sec. 99-19-3
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond

4. **When Collected:**

After Conviction when a surety bail bond, property bail bond or guaranteed arrest bond certificate is posted with the court clerk.
[No provision to collect cash bonds in advance]

5. **Amount:** Ten Dollars \$ 10.00

6. **Settlement Code:** V B F

I. STATE GAME AND FISH LICENSE ASSESSMENT SEC. 49-7-21 (6)

- 1. Purpose:** A state assessment to assist funding of the Department of Wildlife, Fisheries and Parks.
- 2. Imposed When:** A defendant is convicted of hunting, fishing, etc. without the required state license under Sec. 49-7-21 (3).
[now includes in state and out of state]
- 3. Amount Due:** The amount the license would have costs. To be noted on the ticket or citation by the charging officer. The officer may obtain the amount by contacting the local Field Office of the Department of Wildlife, Fisheries, & Parks. (Dist. 1 Tupelo (662) 840-5172, Dist. 2 Batesville (662) 563-6330, Dist. 3 Stoneville (601) 686-3520, Dist 4 (601) Meridian 692-2776, Dist. 5 Brookhaven (601) 835-3050, Dist. 6 Hattiesburg (601) 545-5632, Marine Biloxi (228) 435-1332, Metro Jackson 364-2235)
- 4. DFA Settlement Code:** *H V*

J. ADULT DRIVERS TRAINING SEC. 63-9-11

- 1. Purpose:** A fee to off set the cost for the Department of Public Safety to maintain a non-public record of persons who are eligible for the program.
- 2. Imposed When:** A defendant qualifies and elects to proceed with the adult drivers training option in lieu of a conviction record.
- 3. Amount due:** **Ten Dollars** **\$ 10.00**
- 4. Settlement:** Collections must be settled by the City Clerk to the Department of Finance and Administration (DFA).
- 5. DFA Settlement Code:** **ADT**

K. STATE CRIMINAL JUSTICE FUND ASSESSMENT SEC. 97-19-67 (4)

- 1. Purpose:** A state assessment to assist funding of the criminal justice system
- 2. Imposed When:** A criminal conviction for writing a bad check results from a complaint filed by the “District Attorney’s Bad Check Unit” as provided by Sec. 97-19-79.
- 3. Amount Due:** Up to 85 % of the face value of the bad check
- 4. Settlement Code:** *C J F*
- 5. Other Charges:** Sec. 97-19-79 allows the district attorney’s \$ 40.00 service charge to be added to court cost.

L. OTHER EXCEPTIONS

- 1. SEATBELT CONVICTIONS:** State assessments are not collected for seatbelt convictions under Sec. 63-2-7. However, local assessments are collected (see A. G. opinion addressed to Donny Joe Sparks, dated August 15, 2008).
[A seatbelt violation is not the same thing as a child restraint violation. Assessments are collected for child restraint violations under Sec. 63-7-301.]
- 2. DEFENSIVE DRIVING:** No assessments should be charged on a minor’s defensive driving option in lieu of conviction under Sec. 63-1-55. However, fine, cost and assessments are charged for **adult defensive driving** in lieu of conviction under Sec. 63-9-11.

2. STATE ASSESSMENTS IN CIVIL CASES

It is unlikely that a civil case will arise in municipal court. In the event of a civil case the following assessments must be charged.

A. STATE COURT EDUCATION ASSESSMENT SEC. 37-26-3

1. **Purpose:** A state assessment to fund court education
2. **Imposed When:** Any time a civil case is filed
3. **Amount Due:** On each case filed - Two Dollars **\$ 2.00**
4. **DFA Settlement Code:** *S C E F*

B. STATE COURT CONSTITUENTS ASSESSMENT SEC. 37-26-9 (4)

1. **Purpose:** A state assessment to assist funding of court education
2. **Imposed When:** Any time a civil case is filed
3. **Amount Due:** On each case filed - Fifty Cents **\$.50**
4. **DFA Settlement Code:** *C C*

3. LOCAL AND OTHER ASSESSMENTS

A. COUNTY LAW LIBRARY ASSESSMENT (optional) SEC. 19-7-31

1. **Purpose:** To fund the county law library
2. **Imposed When:** The municipal board *may* impose this assessment to assist the cost of operating the county law library.
3. **Amount Due:** Up to **\$ 1.50** for each case where convicted
4. **County Settlement:** Settle to the Chancery Clerk

B. LOCAL CITATION ASSESSMENT

Sec. 63-9-31

1. **Purpose:** An assessment to assist funding of wireless radio communications
2. **Imposed When:** The Municipal Board may impose this assessment on criminal convictions resulting from citations issued by the police officers of the municipality.
3. **Amount Due: Up To \$ 10.00**
4. **DPS Settlement:** Collections must be settled to the Municipal Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning (DPS).

C. CRIME STOPPERS ASSESSMENT (optional) SEC. 45-39-17

1. **Purpose:** To fund local crime stopper programs
2. **Imposed When:** The Municipal Board (by ordinance) may impose this assessment to fund local crime stopper programs.
3. **Exceptions:** Not imposed on parking and registration convictions.
4. **Amount Due:** Up to \$ **2.00** for each criminal conviction
5. **DPS Settlement:** Settled to the Municipal Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning (DPS).

D. POLICE DEPARTMENT ASSESSMENT SEC. 63-9-33
[Optional for Municipalities with a population of 15,000 or more.]

- 1. Purpose:** To fund computerized crime prevention.
- 2. Imposed When:** When imposed by the municipal board (by ordinance procedure).
- 3. Amount Due:** Up to One Dollar (\$ 1.00) when there is a violation of Title 63 or parking or registration.
- 4. Settlement:** Settled to the Municipal Clerk for deposit into a special fund to be budgeted by the board.

E. MUNICIPAL/ OTHER LOCAL SPECIAL ASSESSMENTS

There are no other statutory municipal or other special assessments.
Other assessments may be imposed only by local and private legislation.

4. **STATE IMPOSED FINES**

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE FINE

- A. Imposed By:** Section 63-15-4
- B. Imposed when:** A person is convicted of operating a motor vehicle without an insurance card.
- C. Amount Due**
1. \$ 500.00 if no insurance is obtained by court or payment date.
 2. \$ 100.00 if insurance is obtained by court or payment date.
 3. Judge may suspend any portion of the fine.
(See A. G. Opinion Robert W. Lawrence - 2/9/01)
- D. Settlement Requirement:**
1. **State Share:** One Half (50 %) of the fine collected must be settled to the state.
 2. **Municipal Share:** One Half (50 %) of the fine collected must be settled to the municipality. The money is settled as with other general fine collections, to the General Fund of the municipality
- E. DFA Settlement Code:** **MVL**

[**Note:** Care should be taken to report to the Department of Public Safety on the **UP Commissioner's Copy of the Traffic Ticket** all cases where the defendant does not show "proof of insurance". Section 63-15-4 (4) requires suspension of the drivers license for one year or until the owner of the vehicle shows proof of liability insurance.]

4. REGULATIONS GOVERNING ASSESSMENTS
(Formal Regulations: Rule 4.700: Title 4, effective June 30, 2005)

A. APPLYING ASSESSMENTS – Assessments are determined as of the date of the court judgment. There is no authority to suspend assessments

B. COLLECTION OF ASSESSMENTS

1. Who Collects: The municipal court clerk Sec. 21-23-11

2. How Collected:

(a) *Cash*

(b) *Check* received from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation must be accepted (required by Sec. 63-9-12). The court clerk is not responsible for a bad check, if a reasonable collection effort is made (such as suspending the driver's license).

(c) *Other check, money order, etc.*

(1) The court clerk is responsible for bad collections, accepted at personal risk. (It is suggested that you do not deliver the receipt or credit the person's account until the check, etc. clears)

(2) If a bad check is received, Sec. 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored. This procedure is to establish intent to write a bad check and authorize a \$40,00 service charge.

(d) *Working assessments off* may be authorized by the court (A.G. Priscilla Daniel 10/3/90). Sec. 47-1-47 & Sec. 99-19-20 authorizes amount of the credit. The municipality does not reimburse the state for the loss.

C. ACCOUNTING FOR ASSESSMENTS

1. Receipts - must be written to show the type assessments collected.

2. Settlement Reports - must be made (daily) to the municipal clerk, when there is a separate court clerk. This report must provide all necessary information for the municipal clerk's further accounting and further settling (Sec. 21-15-21).

3. Account Funds - *clearing funds* must be maintained by municipal clerks to account for and to hold state and county assessments. Special municipal assessments are accounted for in municipal *special revenue funds*.

4. Accounting Records - must be prepared by the court clerk and municipal clerk as appropriate and required by the “*Municipal Audit and Accounting Guide*” regulations (find at website: <http://www.osa.state.ms.us/downloads.htm>). These include receipts, journals, and ledgers.

5. Settlement Codes and Descriptions - must be used to account for assessments.

DFA Settlement Codes: The court clerk must determine and provide the settlement codes to the municipal clerk for settlements to be made to the State Department of Finance (DFA), these codes are listed on settlement forms provided to the municipal clerk by DFA.

DPS Settlement Descriptions: The court clerk must also determine and provide the description codes to the municipal clerk for settlements to be made to the State Department of Public Safety (DPS), these description codes are listed on settlement forms provided to the municipal clerks by DPS.

Old Law Assessments Codes (cases prior to 10/1/90): must be reclassified by type of violation, and accounted for using the proper settlement code.

Code Training: These codes and descriptions are also included in Judicial College training materials presented to court clerks.

D. SETTLEMENT OF ASSESSMENTS

1. **Daily Settlements:** The court clerk must immediately settle all collections to the municipal treasury (Sec. 21-15-21). Generally, this means daily.

2. **Monthly Settlements:**

Routine Collections: The municipal clerk must settle court *assessments* to the state and county monthly (a board claim or approval order is not required and should not delay settlement).

Other Collections: Collections pending determination should be held until resolutions. For example, pre-paid appearance bond fees should be held until the court guilty/innocent decision or the prosecutor determines if a refund is due.

3. **Settlement Forms:** State issued settlement forms must be used by the municipal clerk for settlements to the state.

DFA Form: This form will be prescribed by the Dept. of Finance and Administration for settlement of assessments such as uniform assessments. This form will be updated as changes and new settlement codes are required.

DPS Form: This form will be prescribed by the Dept. of Public Safety's Office of Public Safety Planning for settlement of certain special assessments it accounts for and returns to the municipality, such as local citation and crime stopper assessments.

Preparation of Forms: These are "fill in the blank" forms that include instructions for mailing and making contact for assistance. If a settlement cannot be neatly and completely made on the form (without change), contact should be made as instructed (something is wrong).

**E. REFUND OF STATE ASSESSMENTS
[AND OTHER COURT RELATED PAYMENTS TO THE STATE]**

1. **Who Authorizes Refunds:** The Court Clerks must authorize a refund when any of the following conditions occur.
 - (a) Over payments have been made due to **collection error**,
 - (b) **court order** directs,
 - (c) convictions have been **overturned upon appeal**,
 - (d) or in the case of an advance **appearance bond fee** payment, when the prosecutor enters a **nolle prosequi or retires the case to the file**.
2. **Who Must Make Refunds:** The Municipal Clerk must make the refund when legally authorized by the Court Clerk.
3. **How Refunds Are Authorized:** The Court Clerk must authorize all refunds by following the "**certificates of eligibility**" procedure.
4. **Certificate of Eligibility Procedure:** This procedure involves the Court Clerk preparing, distributing and accounting for a form as prescribed and regulated by the State Auditor (Sec. 99-19-73 & 83-39-31).
 - (a) The "**Certificates of Eligibility**" **form** is a mandatory document. This form is issued by the Court Clerk to the person to be refunded and the Municipal Clerk.
 - (b) The Certificate of Eligibility form must contain the specific information. The form must be written, signed and include the date, case number, payee, amount due and reason for the refund. Written and signed may be electronic when appropriate (Sec. 75-12-13).
 - (c) Copies of all issued certificates of eligibility must be maintained as a record by the Court Clerk; and the Municipal Clerk when a refund is made.

F. REFUNDS OF OTHER COLLECTIONS [NOT STATE RELATED]

The "Certificate of Eligibility" procedure may also be used to support claims presented to the municipality for other (over or refundable) payments made to municipal funds (claims docket, Sec. 21-39-5 & 21-39-7). This means claims filed with the Municipal Clerk for court collections that were settled into municipal funds; such as fines, court costs, bond forfeitures, local assessments, etc.. Such claims may be filed by a person making the claim or the court clerk on their behalf.

G. SOURCES OF REFUNDS:

Refunds must be made from the funds and accounts the originally collected money was settled into. For example, an overpayment of a State Uniform Assessment Traffic Violation (TV) collection would be refunded from the TV collection currently held in the “State Assessment Clearing Fund”.

If assessment money has already been settled to the state (or county), refunds are made from later similar collections as it is deposited into the fund.

The Municipal Clerk must reduce the settlement to the state by the amount of refunds made. The state settlement form list net settlements; it is not necessary to show refunds.

If the amount of a refund is too large to recover from similar funds on hand; the municipal clerk should contact the Department of Finance and Administration for procedures.

Refunds from municipal funds (General Fund, etc.) are not limited to the type of revenue (fine, court costs, bond forfeiture, etc.) collected.

H. MUNICIPAL BOARD ORDERS FOR REFUNDS:

Municipal Board's Orders are not required for refunds of state or county assessments (money held in clearing funds). A board order is required to authorize refunds of court cost, fines or special municipal assessments (money held in budgeted municipal funds).

COURT ASSESSMENT/FINE SETTLEMENT FORM

Submit to Department of Finance and Administration

COUNTY **OR** MUNICIPALITY OF: _____
FOR THE MONTH & YEAR OF: _____

ASSESSMENT /FINE CODES	CITY COURT	CIRCUIT/ COUNTY COURT	JUSTICE COURT	CHANCERY COURT	TOTAL	ASSESSMENT /FINE CODES
SCEF						SCEF
TV						TV
IC						IC
GF						GF
SL						SL
TT						TT
OM						OM
OF						OF
ABF						ABF
VBF						VBF
DVF						DVF
CJF						CJF
CC						CC
DA						DA
HV						HV
MVL						MVL
ADT						ADT
CTF						CTF
CEC						CEC
CLA						CLA
ALA						ALA
POF						POF
RCV						RCV
DV						DV
EXP						EXP
TOTAL						

REPORT SUBMITTED BY: _____
DATE OF REPORT: _____
TELEPHONE NUMBER: _____

An Explanation and the Assessment and Fine Codes are defined on the back of this form.

TO BE REVISED BY DFA EFFECTIVE July 1, 2010

EXPLANATION OF STATE ASSESSMENT/FINE FORM

1. This form was designed by the State Auditor's Office to be used in the settlement of court assessments and fines. The form should be processed as follows:
 - (A) All assessments and applicable fines should be settled monthly.
 - (B) The form should show the total from each type of assessment and fine and the court making the assessment and/or fine.
 - (C) **One** check should accompany the settlement and be payable to **"State Treasurer"**.
 - (D) The completed form and check should be mailed to:
Department of Finance and Administration
Office of Budget and Accounting
P. O. Box 267, Jackson, MS 39205
2. Questions regarding this form should be directed to:
Department of Finance and Administration 601-359-3402
State Auditor's Office 1-800-321-1275 or 601-576-2657
3. The assessment and fine codes shown on the form are defined as follows:

(1)	SCEF	-	State Court Education Fund	-	SEC. 37-26-3
(2)	TV	-	Traffic Violations	-	SEC. 99-19-73 (1)
(3)	IC	-	Implied Consent Law Violations	-	SEC. 99-19-73 (2)
(4)	GF	-	Game and Fish Law Violations	-	SEC. 99-19-73 (3)
(5)	SL	-	Litter Law Violations	-	SEC. 99-19-73 (4)
(6)	TT	-	Trauma Traffic	-	SEC. 99-19-73 (5)
(7)	OM	-	Other Misdemeanors	-	SEC. 99-19-73 (6)
(8)	OF	-	Other Felonies	-	SEC. 99-19-73 (7)
(9)	ABF	-	Appearance Bond Fee	-	SEC. 83-39-31
(10)	VBF	-	Victims Bond Fee	-	SEC. 83-39-31 (7)
(11)	DVF	-	Domestic Violence Fund	-	SEC. 25-7-13
(12)	CJF	-	Criminal Justice Fund	-	SEC. 97-19-67
(13)	CC	-	Court Constituents Fund	-	SEC. 37-26-9
(14)	DA	-	Drug Abuse/Drivers License Reinstatement	-	SEC. 63-1-71 / SEC. 63-11-30
(15)	HV	-	Hunting Violation Fee	-	SEC. 49-7-21
(16)	MVL	-	Compulsory Motor Vehicle Liability Insurance	-	SEC. 63-15-4
(17)	ADT	-	Adult Driver Training	-	SEC. 63-9-11
(18)	CTF	-	Mississippi Children's Trust Fund	-	SEC. 99-19-75
(19)	CEC	-	Comprehensive Electronic Court Systems	-	SEC. 25-7-9 / 25-7-13
(20)	CLA	-	Civil Legal Assistance Fund	-	SEC. 25-7-9 / 25-7-13
(21)	ALA	-	Additional Littering Assessment	-	SEC. 97-15-29
(22)	POF	-	Protective Order Form [Domestic Violence]	-	SEC. 93-21-7
(23)	RCV	-	Railroad Crossing Violation	-	Sec. 99-19-73-(8) (a)
(24)	DV	-	Drug Violation	-	Sec. 99-19-73-(8) (b)
(25)	EXP	-	Expunge Assessment	-	HB 1758, 2010 Session

Department of Public Safety **COURT ASSESSMENT SETTLEMENT**
FORM

SECTIONS 63-9-31 and 45-39-17

Name of County or Municipality _____

Month _____ Year _____

A	B	C	D	E	F
				FOR DPS USE ONLY	
				Less 1% Administrative Fee	Total Participant Deposit
	Participant	County or City Code	Total Assessments Collected		
WIRELESS COMMUNICATIONS ASSESSMENT -House Bill 1004					
LINE 1	MHP Title 63 Citations	900			
LINE 2	All Other Title 63 Citations				
CRIME STOPPERS ASSESSMENT-Senate Bill 2481					
LINE 3	Crime Stopper 45-39-17 Assessment				
LINE 4	TOTAL				

Report Submitted By: _____

Title of Submitter: _____

Address of County/City: _____

Telephone Number: _____

Fax Number: _____

INSTRUCTIONS FOR COMPLETION BY COURT CLERK:

The code for MHP is 900. This code is already inserted on Line 1, Column C.

1. Insert your county or municipal code on Line 2, Column C and on Line 3, Column C.
2. Counties enter total wireless communication assessments on MHP citations collected on Line 1, Column D.

NOTE: Cities will not normally have an amount here unless an MHP citation were for some reason adjudicated in city court.

3. Enter the total wireless communication assessments collected on all non-MHP citations on Line 2, Column D.
4. Enter the total crime stopper assessments collected on all citations on Line 3, Column D.
5. Total Column D on Line 4.
6. Columns E & F are for DPS use only.

JUSTICE COURT CLERKS SETTLE TO CHANCERY CLERK WITH COURT ASSESSMENT SETTLEMENT FORM

CHANCERY CLERKS AND MUNICIPAL CLERKS MAKE CHECKS PAYABLE TO "DPS FUND #3747."

Be sure to include a copy of Court Assessment Settlement Form with your check.

MAIL TO:

**Mississippi Department of Public Safety
Comptroller's Office**